

play video and broadband subscribers, then, for foreclosure to be profitable roughly [BEGIN HIGHLY CONFIDENTIAL] [END HIGHLY CONFIDENTIAL] subscribers would have to purchase upgraded video services for every [BEGIN HIGHLY CONFIDENTIAL] [END HIGHLY CONFIDENTIAL] that switched to a different provider.³⁰

iii. *Subscriber mix*

47. If New Charter foreclosed access to OVDs, it would affect all its broadband subscribers, not just those that purchased a particular bundle.³¹ The two prior sections show that an important factor in determining New Charter's incentives to foreclose is the mix of broadband subscribers that take multiple services. That mix will determine what is at risk for New Charter. The following tables present information about the subscriber mix that I have used to estimate the average margin at risk for New Charter's broadband subscribers.

48. Table 5 shows the mix of subscribers across bundled and single play services for TWC, Charter, and BHN as of the end of December 2014. The subscriber mix is similar across TWC and Charter companies. BHN broadband subscribers are significantly less likely to purchase broadband alone. For all three companies, most subscribers purchase bundles. Around [BEGIN HIGHLY CONFIDENTIAL] [END HIGHLY CONFIDENTIAL] of subscribers purchase a triple play bundle, while [BEGIN HIGHLY CONFIDENTIAL] [END HIGHLY CONFIDENTIAL] purchase either a double or triple play bundle.

[BEGIN HIGHLY CONFIDENTIAL]

additional video tier and premium video programming to serve its [BEGIN HIGHLY CONFIDENTIAL] [END HIGHLY CONFIDENTIAL] higher tier video customers (including approximately [BEGIN HIGHLY CONFIDENTIAL] [END HIGHLY CONFIDENTIAL] ethnic and other non-standard tier subscribers). This results in a margin of [BEGIN HIGHLY CONFIDENTIAL] [END HIGHLY CONFIDENTIAL] per upgraded subscriber for the upgrade portion of their video service. Note this is not the average gross margin across all subscribers, since [BEGIN HIGHLY CONFIDENTIAL] [END HIGHLY CONFIDENTIAL] of Charter's [BEGIN HIGHLY CONFIDENTIAL] [END HIGHLY CONFIDENTIAL] video subscribers already had the Silver and Gold video tiers. The average gross margin for upgraded service across all video subscribers is [BEGIN HIGHLY CONFIDENTIAL] [END HIGHLY CONFIDENTIAL], reflecting the [BEGIN HIGHLY CONFIDENTIAL] [END HIGHLY CONFIDENTIAL] margin times the [BEGIN HIGHLY CONFIDENTIAL] [END HIGHLY CONFIDENTIAL] of video subscribers that do not already have upgraded service.

³⁰ The level of lost customers that make the foreclosure unprofitable is the ratio of lost to gained margin [BEGIN HIGHLY CONFIDENTIAL] [END HIGHLY CONFIDENTIAL] which is roughly [BEGIN HIGHLY CONFIDENTIAL] [END HIGHLY CONFIDENTIAL].

³¹ Note that subscribers need broadband services to access OVDs.

Table 5

Charter, Time Warner, and Bright House Customer Relationships

End of December 2014

	Video	Broadband	Phone	Share of Subscribers			New Charter	Subscribers (000)			New Charter
				TWC	Charter	BHN		TWC	Charter	BHN	
Triple Play	1	1	1	29.2%	32.8%						
Double Plays											
Video/Broadband	1	1									
Broadband/Phone		1	1								
Video/Phone	1		1								
Single Plays											
Video Only	1										
Broadband Only		1									
Phone Only			1								
Total				100.0%	100.0%	100.0%	100.0%	15,198	5,840		

Source: Time Warner, Charter, and Bright House reported totals.

[END HIGHLY CONFIDENTIAL]

Notably, broadband customers typically subscribe to more than just the broadband service. Only a little over [BEGIN HIGHLY CONFIDENTIAL] [END HIGHLY CONFIDENTIAL] of broadband customers subscribe only to the broadband service. Table 6 shows the breakout of broadband customers across each bundles type.

[BEGIN HIGHLY CONFIDENTIAL]

Table 6

Broadband Customer Bundles

End of year 2014

	All Subscribers	
	Share of Subscribers	Subs
Triple Play		
Video/Broadband		
Broadband/Phone		
Broadband Only		
Total Broadband		100.0%

[END HIGHLY CONFIDENTIAL]

iv. Average margins across all broadband subscribers

49. Table 7 summarizes the average revenues and average gross margins by broadband bundle for the 19 million New Charter broadband subscribers shown in Table 6. Since subscribers need broadband services to access OVDs, this is the set of subscribers that might be affected by OVD foreclosure. Larger bundles include more services and have higher average

revenues. The average direct expenses per subscriber reflect those used in calculation of Table 4 and tallied to include the average direct expense of each service included in the bundle.³²

[BEGIN HIGHLY CONFIDENTIAL]

Table 7			
Charter Average Gross Margin by Broadband Bundle			
	Avg. Revenue per sub ¹	Avg. Direct Expense per sub ²	Avg. Gross margin per sub
Triple Play			
Video/Broadband			
Broadband/Phone			
Broadband Only			

1 - Reflects Charter average revenues in December 2014.

Video revenues include 2014 average advertising revenue per subscriber.

Excludes installation and bulk housing agreement fees.

2 - Reflects Charter average direct expenses per subscriber for full year 2014.

Excludes installation costs.

[END HIGHLY CONFIDENTIAL]

The gross margin by service bundle helps define the amounts New Charter stands to gain or lose in the event of OVD foreclosure. Table 8 combines the breakdown of broadband subscribers by bundle in Table 6 with the gross margins by broadband bundle in Table 7. For each broadband bundle, Table 8 shows the margin New Charter would lose if the subscriber switched to a rival ISP, and the margin it would gain if the subscriber increased its purchases of video services.³³ These margins are labeled “Loss” and “Gain” under “Impact of Foreclosure.”

[BEGIN HIGHLY CONFIDENTIAL]

³² Direct expenses in Table 7 are based on the full year 2014 figures underlying Table 4. This is conservative. Since December 2014 average direct expenses were approximately [BEGIN HIGHLY CONFIDENTIAL] [END HIGHLY CONFIDENTIAL] higher than the full year average, gross margins based solely on December 2014 would be slightly lower.

³³ The margins for Loss and Gain in Table 8 are based on the figures shown in Table 7. Losses reflect the entire gross margin per subscriber for each broadband bundle. The potential gains entail calculation of the incremental margin from adding or upgrading bundled video service. For example, the [BEGIN HIGHLY CONFIDENTIAL] [END HIGHLY CONFIDENTIAL] margin gain for broadband-only subscribers is the [BEGIN HIGHLY CONFIDENTIAL] [END HIGHLY CONFIDENTIAL] video and broadband double play margin gained minus the [BEGIN HIGHLY CONFIDENTIAL] [END HIGHLY CONFIDENTIAL] broadband-only margin that was already being received. For existing video and broadband double and triple play customers, the gain is not that they begin video service but instead upgrade to higher video tiers. The average gross margin for upgraded video service was described in a preceding section.

Table 8

Incentive to Foreclose OVDs by Broadband Bundle

	All Subscribers		% of Subs also use Netflix	Netflix Subscribers		Impact of Foreclosure	
	Subscribers	Share of Subs		Subscribers	Share of Subs	Loss	Gain
Triple Play							
Video/Broadband							
Broadband/Phone							
Broadband Only							
Total Broadband		100.0%			100.0%		

[END HIGHLY CONFIDENTIAL]

50. Note that many broadband subscribers do not watch online video and therefore would not be affected by OVD foreclosure. For example, according to a survey conducted for Charter in 2014, only about [BEGIN HIGHLY CONFIDENTIAL] [END HIGHLY CONFIDENTIAL] of broadband subscribers also subscribe to Netflix.³⁴ Charter's experience is comparable to the rest of the U.S. In Q4 2014, Netflix had 39.1 million U.S. streaming subscribers, which were only 42% of the total 92.9 million U.S. broadband subscribers.³⁵ Assume that subscribers that care about OVDs currently subscribe to Netflix, and that those that do not care about OVDs do not currently subscribe to Netflix. Only current Netflix subscribers, then, will be affected by foreclosure. Table 8 shows an estimate of the number of Netflix subscribers by bundle.

51. Based on the estimated number of Netflix subscribers, New Charter would lose [BEGIN HIGHLY CONFIDENTIAL] [END HIGHLY CONFIDENTIAL] on average for every broadband subscriber that left New Charter, and would gain [BEGIN HIGHLY CONFIDENTIAL] [END HIGHLY CONFIDENTIAL] on average for every broadband subscriber that increased its video purchases. See Table 9. This means that more than [BEGIN HIGHLY CONFIDENTIAL] [END HIGHLY CONFIDENTIAL] subscribers would have to purchase upgraded video services for every [BEGIN HIGHLY CONFIDENTIAL] [END HIGHLY CONFIDENTIAL] that switched to a different provider [BEGIN HIGHLY CONFIDENTIAL] [END HIGHLY CONFIDENTIAL].³⁶ (Note that if I instead assume that all subscribers would be affected

³⁴ See, for example, General Product Meeting: Video On Demand Content Strategy, May 12th, 2014, p. 5. Assume that these penetration rates also apply to Netflix's penetration of TWC and BHN subscribers, and that Netflix has the same penetration amongst subscribers who purchase broadband and voice as those who only purchase broadband.

³⁵ SNL Kagan data.

³⁶ These estimates are conservative. Upgraded or new video service could come with additional installation costs associated with a "truck roll" (technician dispatched to do installation). Installation costs would net against the monthly gross margin gain in determining whether foreclosure was profitable. If these new or upgraded video subscribers did not stay with New Charter for long to pay off the installation costs plus the other losses, New Charter could actually lose money.

rather than just Netflix subscribers, the ratio would increase to [BEGIN HIGHLY CONFIDENTIAL] [END HIGHLY CONFIDENTIAL].

[BEGIN HIGHLY CONFIDENTIAL]

Table 9
Overall Per Subscriber Impact of Foreclosure

	Loss	Gain	Ratio Loss to Gain
All Subscribers			
Netflix Subscribers			

[END HIGHLY CONFIDENTIAL]

B. New Charter would likely lose a significant number of subscribers if it foreclosed OVDs

52. The evidence suggests New Charter would lose a substantial number of profitable broadband subscribers if OVDs were foreclosed. Charter's survey of subscribers found that consumers want more content than Charter provides. The survey showed that [BEGIN HIGHLY CONFIDENTIAL] [END HIGHLY CONFIDENTIAL] of consumers want more options for free programming to watch on demand and [BEGIN HIGHLY CONFIDENTIAL] [END HIGHLY CONFIDENTIAL] want full past seasons of programming that can be "binge" watched.³⁷ OVDs are a source of this type of programming, and therefore access to OVDs increases consumer value for Charter broadband. If even a small percentage of these consumers switch away from New Charter in response to a foreclosure strategy, New Charter would be worse off.

53. Few surveys have directly asked consumers whether they would switch their broadband provider if OVDs were unavailable. One survey by Global Strategy Group ("GSG") found that over 70% of broadband subscribers also subscribing to Netflix would switch if Netflix service were degraded.³⁸ This implies approximately 27% of total broadband subscribers would switch.³⁹ Note that if New Charter foreclosed OVDs and that foreclosure caused 27% of broadband subscribers to switch to a rival ISP, then [BEGIN HIGHLY CONFIDENTIAL] [END HIGHLY CONFIDENTIAL] of broadband subscribers would have to upgrade video services for it to be profitable—an impossibility since only 73% of subscribers would remain with New Charter after the switching.

³⁷ General Product Meeting: Video On Demand Content Strategy, May 12th, 2014, p. 4.

³⁸ Letter from Michael D. Hurwitz, Willkie Farr & Gallagher, to Marlene H. Dortch, FCC, at encl., p. 1 (Feb. 19, 2015).

³⁹ Memorandum from William Lake, FCC, to Marlene Dortch, FCC, Exhibit 1b (public information) (Dec. 9, 2014). This 27% figure reflects 39% of broadband subscribers having Netflix times the 71% that would switch broadband service.

54. The average gain and loss shown in Table 9 can be used to calculate the critical percentage of affected broadband customers whose loss would make foreclosure unprofitable. It shows that for every one average subscriber lost, New Charter would need [BEGIN HIGHLY CONFIDENTIAL] [END HIGHLY CONFIDENTIAL] average subscribers to upgrade video service. Stated another way, the foreclosure would be unprofitable if as little as [BEGIN HIGHLY CONFIDENTIAL] [END HIGHLY CONFIDENTIAL] of the affected broadband customers were to switch while *all* of those that did not switch instead upgraded their video service.⁴⁰ Of course, not all broadband subscribers watch OVDs and some will be unaffected by foreclosure. Foreclosure would be even less profitable if the retained broadband subscribers do not all choose to upgrade their video service. For example, if only half of the retained customers upgraded video service, foreclosure would be unprofitable if as little as [BEGIN HIGHLY CONFIDENTIAL] [END HIGHLY CONFIDENTIAL] of total broadband subscribers switched away from New Charter.⁴¹

55. The costly response of consumers leaving Charter need not be immediate to make the analysis above applicable. Broadband providers experience substantial churn, giving customers ample opportunity to leave one provider for another or simply stop turning to one of the providers. In any given year, Charter experiences substantial churn among its broadband subscribers. During 2014, typical monthly churn for Charter broadband was around [BEGIN HIGHLY CONFIDENTIAL] [END HIGHLY CONFIDENTIAL] yielding an annual churn around [BEGIN HIGHLY CONFIDENTIAL] [END HIGHLY CONFIDENTIAL]. Charter constantly needs to attract new customers to replace this churn just to stay even. An OVD foreclosure strategy that would blemish a broadband provider in the eyes of consumers would also reduce the demand for its broadband service from new customers, and would lead to less broadband growth. Any slowdown in attracting new broadband subscribers could easily result in overall losses as new subscribers are not signed up while existing subscribers are turning away at a rapid pace.

⁴⁰ This percentage of customers lost where foreclosure becomes unprofitable is typically called “critical loss.” Assuming all of the affected broadband customers retained were to upgrade service, it is calculated as the result of the margin gained [BEGIN HIGHLY CONFIDENTIAL] [END HIGHLY CONFIDENTIAL] divided by the sum of the margin gained and the margin lost [BEGIN HIGHLY CONFIDENTIAL] [END HIGHLY CONFIDENTIAL].

⁴¹ If only half of retained affected customers upgrade video service, the gain would be half as great. The critical loss would be [BEGIN HIGHLY CONFIDENTIAL] [END HIGHLY CONFIDENTIAL] of affected customers, which reflects half the margin gained [BEGIN HIGHLY CONFIDENTIAL] [END HIGHLY CONFIDENTIAL] divided by the sum of the margin gained and the margin lost [BEGIN HIGHLY CONFIDENTIAL] [END HIGHLY CONFIDENTIAL]. Assuming [BEGIN HIGHLY CONFIDENTIAL] [END HIGHLY CONFIDENTIAL] of broadband customers subscribe to Netflix, the foreclosure would be unprofitable if [BEGIN HIGHLY CONFIDENTIAL] [END HIGHLY CONFIDENTIAL] of broadband customers switched away from New Charter.

56. Some of broadband churn is natural and can happen from customers moving residences. However, a substantial amount of the churn is due to competition between broadband service providers. A 2010 FCC report found that 37% of broadband users had switched providers one or more times in the past three years.⁴² Of those users that switched, the FCC calculated that 57% did not switch broadband providers because of moving residences. Thus, about 20% ($=57\% \times 37\%$) of total broadband users switched providers in the last three years for reasons other than moving residences.

C. Post-merger incentive to encourage growth in OVDs and other new services

57. New Charter will have an incentive to encourage the growth of OVDs and other new vertically related services and products because those services and products increase demand for its broadband services. As I showed above, on net, a loss in broadband subscribers will be more damaging to the profits of the post-merger firm than any potential gain in revenue from video subscribers. Therefore, New Charter will have an incentive to make the consumer broadband experience more attractive to consumers to expand broadband subscribership.

58. As noted earlier, the majority of OVD users also have video service. In fact, it is likely that some of the OVD services are complements to traditional video services for many subscribers, not substitutes. The ability to watch past seasons of a series, for example, can spur a subscriber's demand to view the current season. HBO's chief executive noted in 2014 that consumers want both OVD and traditional products.⁴³ A survey by TiVo Research and Analytics found that consumers are not currently substituting traditional television for Netflix.⁴⁴ Instead, Netflix viewers were found to watch about the same amount of traditional TV as other viewers. The desire on the part of consumers for OVD products *and* the differentiated products offered by MVPD providers gives an incentive for New Charter to ensure their customers' access to these OVD products.

59. Consumer surveys show that it behooves service providers such as Charter to not only allow but encourage its users to also adopt some OVD streaming. A recent survey by TNS Global of 25,000 U.S. households found that about one sixth of pay TV households changed their level of video service in the past year and that those that stream video were roughly twice as likely to have changed the level of video service.⁴⁵ However, these households were not

⁴² Broadband decisions: What drives consumers to switch—or stick with—their broadband Internet provider, FCC Working Paper, 2010.

⁴³ "HBO is launching a stand-alone streaming service in 2015," Washington Post, October 15, 2014, available at <http://www.washingtonpost.com/news/business/wp/2014/10/15/hbo-is-launching-a-stand-alone-streaming-service-in-2015/>.

⁴⁴ "Netflix subscribers still watching just as much boob tube," CNet, July 19, 2013, available at <http://www.cnet.com/news/netflixsubscribersstillwatchingjustasmuchboobtube/>.

⁴⁵ "Streaming video brings pressures and profits to traditional pay TV," Broadband TV News, November 8, 2014, available at <http://www.broadbandtvnews.com/2014/11/08/streaming-video-brings-pressure-and-profits-to-traditional-pay-tv/>.

disproportionately downgrading pay TV. Instead, households that stream video were nearly twice as likely to have upgraded rather than downgraded video service.

60. If New Charter forecloses OVDs, it is more likely to drive subscribers who view OVD services and traditional MVPD video services as complements to switch to other providers. These customers would be among those already subscribing to bundles including both broadband and video services. They would thus be associated with the higher margins coming from bundled services. The more subscribers in this category that view the services as complements, the more likely that New Charter would lose profits if it attempted to foreclose OVDs.

D. Summary regarding foreclosure

61. As described above, New Charter would likely lose a significant portion of its broadband subscribers if it foreclosed OVDs. And it would likely make attracting the subscribers necessary to replace churn, much less to grow, very difficult. This means that an unrealistically significant portion of any remaining subscribers would have to purchase more video services for foreclosure to be profitable. Furthermore, OVD services and traditional MVPD video services are likely complements for many subscribers, and these subscribers are likely to purchase less video services if OVDs are foreclosed, not more, as required for profitability. For all of these reasons, it is very unlikely that New Charter would find it profitable to foreclose OVDs.

VIII. Conclusion

62. There are a number of strong economic arguments indicating that the proposed transactions will be procompetitive and benefit consumers. First, the merging firms do not compete for consumers of broadband, video, or voice, so there will be no impact on local competition in those markets. Second, New Charter will have much larger scale than its constituent firms and therefore will have additional incentive to undertake fixed cost investments that improve quality and speed of service for consumers. Third, New Charter is not vertically integrated upstream with significant programming interests, while its technology is relative inexpensive for both OVDs and consumers, so it remains open to carrying and partnering with a broad set of complementary firms.

63. Perhaps most importantly, New Charter will have improved incentive and ability to sponsor entry among Internet innovators. New Charter will have the scale and complementary assets to be a strong partner to innovative entrants, lowering their costs and giving them more choices in partners. Moreover, New Charter will have an incentive to make its HSD offering as compelling and attractive as possible in order to attract consumers. This will lead to New Charter continuing to integrate with, encourage, and include OVDs in the Charter user experience (e.g. on the Charter Program Guide). Such a strategy is logical and sustainable because each broadband user is profitable at the margin, and therefore any foreclosure of OVDs that drove away those consumers would not be in the best financial interest of New Charter.

The foregoing declaration has been prepared using facts of which I have personal knowledge or based upon information provided to me. I declare under penalty of perjury that the foregoing is true and correct to the best of my information, knowledge, and belief.

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Executed on Wednesday, June 24, 2015

A handwritten signature in black ink, appearing to read "J. S. [unclear]".

Curriculum Vita

Fiona M. Scott Morton

Senior Consultant

PhD, Economics
Massachusetts Institute of Technology

BA (magna cum laude), Economics
Yale University

Fiona M. Scott Morton is a professor of economics at the Yale School of Management. Most recently, she was Deputy Assistant Attorney General for Economic Analysis with the Antitrust Division of the US Department of Justice. Dr. Scott Morton ensured that the Division's economic team provided sound analysis in support of the DOJ's enforcement action and policy, particularly with its work related to analyzing the competitive effects of mergers as well as assessing the competitive implications of certain contractual practices of firms. While at the DOJ, she frequently spoke on antitrust enforcement in high-technology industries as well as patents and their portfolio acquisitions.

An expert in competitive strategy, Dr. Scott Morton's research focuses on empirical studies of competition among firms in areas such as pricing, entry, and product differentiation. She has served in an editing role on various academic economics journals and has published articles in the *American Economic Review*, the *RAND Journal of Economics*, the *Journal of Industrial Economics*, and the *Quarterly Journal of Economics*.

Her expertise and research area is the study of firms, markets, and competition. Her research and consulting work has involved a variety of industries such as merchant shipping, wineries, funeral homes, ecommerce, auto retailing, magazines, and a number of areas in the pharmaceutical industry including competition, generic entry, and procurement of pharmaceuticals for Medicaid and Medicare. Professor Scott Morton's research is widely disseminated in top peer-reviewed journals and through frequent invited research seminars and conferences.

She has taught at the business schools of Stanford and the University of Chicago and served as Associate Dean for Faculty Development at Yale School of Management from 2006–2010. She won the school's teaching award in 2007.

Employment and affiliations

2002–Present	<i>Professor of Economics</i> , Yale School of Management
2008–Present	<i>Visiting Professor</i> , University of Edinburgh Economics Department
2013–Present	<i>Senior Consultant</i> , Charles River Associates
2011–2012	<i>Deputy Assistant Attorney General for Economic Analysis</i> , Antitrust Division, US Department of Justice

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2006–2011	<i>Senior Consultant</i> , Charles River Associates
2006–2010	<i>Senior Associate Dean for Faculty Development</i> , Yale School of Management
2005–2006	<i>Adam Smith Visiting Fellow</i> , Department of Economics, University of Edinburgh, Scotland
2000–2002	<i>James L. Frank '32 Associate Professor of Private Enterprise and Management</i> , Yale School of Management
1999–2000	<i>Associate Professor of Economics and Strategy</i> , Yale School of Management
1997 - 1999	<i>Assistant Professor of Economics and Strategy</i> , Graduate School of Business, University of Chicago
1994–1997	<i>Assistant Professor of Strategic Management</i> , Graduate School of Business, Stanford University
1991–1992	<i>Instructor for Economics 10</i> , Prof. Martin Feldstein, Harvard University

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2014 HEMA/KPPI Distinguished Visitor, Kellogg GSM, Northwestern University (scheduled)

2011 Health Care Research Award, National Institute for Health Care Management for “The Effect of Medicare Part D on Pharmaceutical Prices and Utilization.” With Mark Duggan.
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2010 Excellence in Refereeing Award 2010, *American Economic Review*

2007 Yale School of Management Alumni Association Teaching Award, the only teaching prize awarded at Yale School of Management for the academic year 2006–2007

2007 Green Award, *Journal of Marketing Research*, for the paper “How the Internet Lowers Prices: Evidence from Matched Survey and Automobile Transaction Data.”

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2001–2003 National Science Foundation Research Grant 0111885 for “The Effect of Internet Car Shopping on Prices and Discrimination.” With Florian Zettelmeyer, UC-Berkeley.
<http://www.nsf.gov/awardsearch/showAward.do?AwardNumber=0111885>

1998–2002 National Science Foundation Research Grant 9810178 for “Studies of Competition.”
<http://www.nsf.gov/awardsearch/showAward.do?AwardNumber=9810178>

1995 Distinguished Teaching Commendation: One of three “second prizes” given by Stanford MBA students for excellence in teaching during the academic year 1994-95

1993–1994 Program on the Pharmaceutical Industry, MIT, grant for full tuition and stipend

Courses taught

Advanced Competition Economics and Policy: Elective MBA course covering topics in competition enforcement such as cartels, horizontal mergers, monopolization, vertical restraints, exclusive dealing, MFNs, predatory pricing, and IP. The law is taught but the focus is on the economics and managerial implications.

The Competitor Perspective: One element of the core curriculum for first-year MBAs that provides introductory analysis of competition using tools from economics, marketing, accounting, and politics

Competitive Strategy: Elective MBA course covering topics in I.O. such as price and quantity competition, entry, and antitrust, as well as strategy concepts such as industry analysis, competitive advantage, and sustainability

PhD students supervised (institution, year; first placement)

Andrea Coscelli (Stanford GSB, 1998; University College London)

Brian Viard (University of Chicago GSB, 2000; Stanford GSB)

Paris Cleanthous (Yale, 2003; NYU Stern)

Juan Esteban Carranza (Yale, 2004; Wisconsin-Madison)

Henry Schneider (Yale, 2006; Cornell Johnson School)

Fabian Duarte (Yale, 2010; RAND)

Memberships and professional service

American Economics Association

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National Bureau of Economic Research (NBER) Research Associate, Industrial Organization

First Western Bancorp Inc. (now Sky Bank, Bowling Green, Ohio), Board of Directors (1998–1999)

StreamSage.com, Advisory Board (2000–2004)

Economic Policy, Panel (2002–2004)

Review of Industrial Organization, Editorial Board (2002–2004)

The Journal of Industrial Economics, Associate Editor (2003–2006)

International Journal of Industrial Organization, Co-Editor (2005–2008)

BE Journal of Economics Analysis and Policy, Editor (2006–2010)

Journal of Economic Perspectives, Associate Editor (2007–2010)

Scientific Committee, Center for European Economic Research (ZEW) ICT conference, 2010

Program Committee, American Economic Association Meetings, 2010

Scientific Committee, FTC microeconomics conference, 2010

American Economic Review, Board of Editors (2011–2013)

Research Advisory Board, CEFAGE, Portugal, member (2013-)

Invited research presentations

Dartmouth Econ, MIT Econ, Harvard Econ, Harvard Business School, Harvard School of Public Health, Yale Econ, Yale Law, SUNY Stony Brook Econ, Columbia Econ, Columbia Business School, NYU Stern, U. Penn Wharton School, Univ. of Maryland Econ, Department of Justice, Federal Trade Commission, Univ. of Delaware Econ, Duke Econ, Univ. of Virginia Econ, Carnegie Mellon Heinz School, Northwestern Econ, Northwestern Kellogg GSM, Chicago Econ, Chicago GSB, Purdue Econ, Univ. of Michigan Business School, Washington Univ. St. Louis Olin School, Iowa State Econ, University of Tennessee Knoxville, Univ. of Rochester Business School, Cornell Econ, Univ. of Texas at Austin, Univ. of Arizona, Stanford GSB, UC Berkeley Econ, UC Berkeley Haas School, UCLA Econ, RAND, Univ. of Toronto Econ (Canada), Univ. of British Columbia (Canada), HEC Montreal (Canada), Queens University (Canada), Univ. of Munich (Germany), Univ. of Linz (Austria), London School of Economics (England), Office of Fair Trading (England), Oxford University (England), Cambridge University (England), University of Warwick (England), Imperial College (England), Edinburgh University (Scotland), Stirling University (Scotland), European University Institute (Italy), IDEI Toulouse (France)

Conferences (presenter or discussant)

Competition Policy Lecture, University of Toronto Rotman School, 2014

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ChIPs Women in IP Summit, 2013

Conference on Healthcare Reform, Baker Institute, Rice University, 2013

Landsdowne Lecture, University of Victoria, Canada, 2013

EARIE: 2012, 2013

ABA Spring Antitrust meeting: 2011, 2012, 2013

Milton Friedman Healthcare Conference, University of Chicago: 2011

Yale Marketing IO conference: 2011

FTC Microeconomics Conference: 2010 keynote

NBER Public Economics: spring meeting 2009

ASHE conference: 2008

NBER conference on intellectual property: 2006

UCL Behavioral IO conference, England: 2006

CEPR Applied IO conference: 2006

WZB Institute Behavioral IO conference, Berlin, Germany: 2005

Univ. of British Columbia IO conference: 2004

IDEI (Toulouse) pharmaceutical and healthcare conference: 2008

IDEI (Toulouse) e-commerce conference: 2001, 2003 (co-author presented), 2005

NBER conference on innovation policy: 2005

NBER conference on IO of healthcare: 1998

NBER conference on non-profits: 2002

NBER e-commerce group conferences: 2000, 2001

NBER IO Winter Meetings: 1995, 1996, 2000, 2004

NBER IO Summer Institute: 1998, 2001 (organizer and presenter), 2003, 2007 (organizer), 2008, 2010, 2013 (organizer)

American Economics Assn. Meetings: 2001, 2002, 2004, 2005, 2007, 2008, 2010

Economic Policy Conference: 2002 spring and fall, 2003 fall, 2004 fall

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Harvard Business School Strategy Conference: 1999, 2004

Stanford Strategy Conference: 1996, 1997 (organizer), 1999, 2000

Boston University healthcare I.O. conference: 1995, 1999, 2004

Northwestern Law School Searle Antitrust Economics and Competition Policy: 2011 keynote, 2012 keynote, 2013 (scheduled)

Barcelona GSE Summer Forum, 2013

Kaiser Permanente Healthcare and IO conference, 2013 (organizer) (scheduled)

Refereed publications

Review of Economic Studies, Quarterly Journal of Economics, The RAND Journal of Economics, The Journal of Industrial Economics, Journal of Economics & Management Strategy, Journal of Health Economics, Review of Industrial Organization, International Journal of Industrial Organization, American Economic Review, National Science Foundation, Journal of Law and Economics, Journal of Political Economy, Journal of Law, Economics, and Organization, Marketing Science, Management Science, Strategic Management Journal, Review of Economics and Statistics, Journal of Econometrics, European Economic Review, Berkeley Electronic Journals, The American Journal of Managed Care, Contemporary Economic Policy

Government testimony

House Oversight and Government Reform Committee Hearing, “*The Medicare Drug Benefit: Are Private Insurers Getting Good Discounts for the Taxpayer?*,” July 2008

Senate Finance Committee Hearing, “*Prescription Drug Pricing and Negotiation: An Overview and Economic Perspectives for the Medicare Prescription Drug Benefit*,” January 2007

FTC hearings, “*Possible Anticompetitive Efforts to Restrict Competition on the Internet*,” Auto Panel, October 2002

Major media

The New Yorker, “Shut up and deal” James Surowiecki, April 21, 2014

Planet Money, Episode 438: Mavericks, Monopolies and Beer: Feb 23, 2013

Planet Money, Why Buying a Car Never Changes: Feb 19, 2013

Various antitrust publications: 2011–2012

Marginal Revolution blog, March 31, 2010

The Wall Street Journal, January 7, 2010, A2

The New York Times, April 24, 2003: G:8: col 3

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BusinessWeek, May 13, 2002: 3782: p. 32

CNN TV News, January 2002

The New York Times, December 6, 2001: C:2: col 1

The Wall Street Journal, January 6, 1999: B1

Selected consulting engagements

Prepared and delivered educational materials for the Court in *In re Pharmaceutical Industry Average Wholesale Price Litigation*, US District Court of Massachusetts, MDL No. 1456, 01-CV-012257-PBS (2004).

Retained on behalf of Teva USA and submitted expert report in IP damages litigation *Abbott Laboratories v. Andrx Pharmaceuticals Inc., and Teva Pharmaceuticals USA, Inc. and Roxane Laboratories Inc.*, US District Court for the Northern District of Illinois Eastern Division, No. 05 C 1490 (2005).

Submitted expert report on behalf of fast-track defendants in *In re Pharmaceutical Industry Average Wholesale Price Litigation*, US District Court of Massachusetts, MDL No. 1456, 01-CV-012257-PBS (2006).

Retained on behalf of Pfizer, submitted expert report, and deposed in *In re Neurontin Marketing Sales Practices, and Products Liability Litigation*, US District Court of Massachusetts, MDL No MDL 1629 (2007).

Retained on behalf of Schering-Plough, submitted expert report, and deposed in *In re Schering-Plough Corporation Securities Litigation*, US District Court of the District of New Jersey, 01-CV-0829 (2007).

Retained on behalf of MedStar Health and submitted expert report in *In re Hypodermic Products Antitrust Litigation*, MDL No. 1730, US District Court of the District of New Jersey, 05-CV-1602 (2007).

Retained on behalf of AstraZeneca, deposed, and testified at trial in *State of Alabama v. Abbott Laboratories, Inc., et al.*, Circuit Court of Montgomery County, Alabama, CV-2005-219 (2008).

Retained on behalf of defendants, submitted expert report, deposed, and testified at trial in *Commonwealth of Massachusetts v. Mylan Laboratories, Inc., Ivax Corporation, Warrick Pharmaceutical Corporation, Watson Pharmaceuticals, Inc., Schein Pharmaceutical, Inc., Teva Pharmaceuticals USA, Inc., Par Pharmaceutical, Inc., Purepac Pharmaceutical Co., and Roxane Laboratories, Inc.*, US District Court of Massachusetts, Civil Action No. 03-11865-PBS (2008, 2010).

Prepared and delivered educational materials for the Court and examined at hearing in *Commonwealth of Massachusetts v. Mylan Laboratories, Inc., Ivax Corporation, Warrick Pharmaceutical Corporation, Watson Pharmaceuticals, Inc., Schein Pharmaceutical, Inc., Teva*

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Pharmaceuticals USA, Inc., Par Pharmaceutical, Inc., Purepac Pharmaceutical Co., and Roxane Laboratories, Inc., US District Court of Massachusetts, Civil Action No. 03-11865-PBS (2008).

Retained on behalf of GlaxoSmithKline and Novartis, deposed, and testified at trial in *State of Alabama v. Abbott Laboratories, Inc., et al.*, Circuit Court of Montgomery County, Alabama, CV-2005-219 (2008).

Retained on behalf of Bristol-Myers Squibb and deposed in *State of Alabama v. Abbott Laboratories, Inc., et al.*, Circuit Court of Montgomery County, Alabama, CV-2005-219 (2008).

Retained on behalf of Pfizer, deposed, and testified at trial in *State of Wisconsin v. Abbott Laboratories, Inc., et al.*, Circuit Court for Dane County, Wisconsin, 04 CV 1709 (2009).

Retained on behalf of Sandoz, deposed, and testified at trial in *State of Alabama v. Abbott Laboratories, Inc., et al.*, Circuit Court of Montgomery County, Alabama, CV-2005-219 (2009).

Retained on behalf of Boehringer Ingelheim, submitted expert report, and deposed in *United States of America ex rel. Ven-A-Care of the Florida Keys et al. v. Boehringer Ingelheim Corp. et al.*, US District Court of Massachusetts, Civil Action No. 00-10698-MEL (2009).

Retained on behalf of Sandoz and testified at trial in *Commonwealth of Kentucky v. Alpharma USPD, Inc., et al.*, Franklin Circuit Court–Div. I, Kentucky, Civil Action No. 04-CI-1487 (2009).

Retained on behalf of AstraZeneca and testified at trial in *Commonwealth of Kentucky v. Alpharma USPD, Inc., et al.*, Franklin Circuit Court–Div. I, Kentucky, Civil Action No. 04-CI-1487 (2009).

Retained on behalf of Johnson & Johnson and deposed in *State of Wisconsin v. Abbott Laboratories, Inc., et al.*, Circuit Court for Dane County, Wisconsin, 04 CV 1709 (2009).

Retained on behalf of Chrysler Group LLC, submitted expert report, and testified in selected arbitration hearings in *re Arbitrations Pursuant to Section 747 of H.R. 3288 between Chrysler Group LLC (New Chrysler) and “Covered Dealerships,”* American Arbitration Association (2010).

Retained on behalf of BMS, submitted expert report, and testified at trial in *Commonwealth of Pennsylvania v. TAP Pharmaceutical Products, Inc., et al.*, Commonwealth Court of Pennsylvania, No. 212 M.D. 2004 (2010).

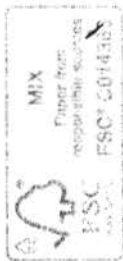
Retained on behalf of Johnson & Johnson and submitted expert report in *Commonwealth of Pennsylvania v. TAP Pharmaceutical Products, Inc., et al.*, Commonwealth Court of Pennsylvania, No. 212 M.D. 2004 (2010).

Retained on behalf of Amgen, submitted expert report, and deposed in *United States of America et al. ex rel. Kassie Westmoreland v. Amgen Inc. et al.*, US District Court of Massachusetts, Civil Action No. 06-10972-WGY (2011).

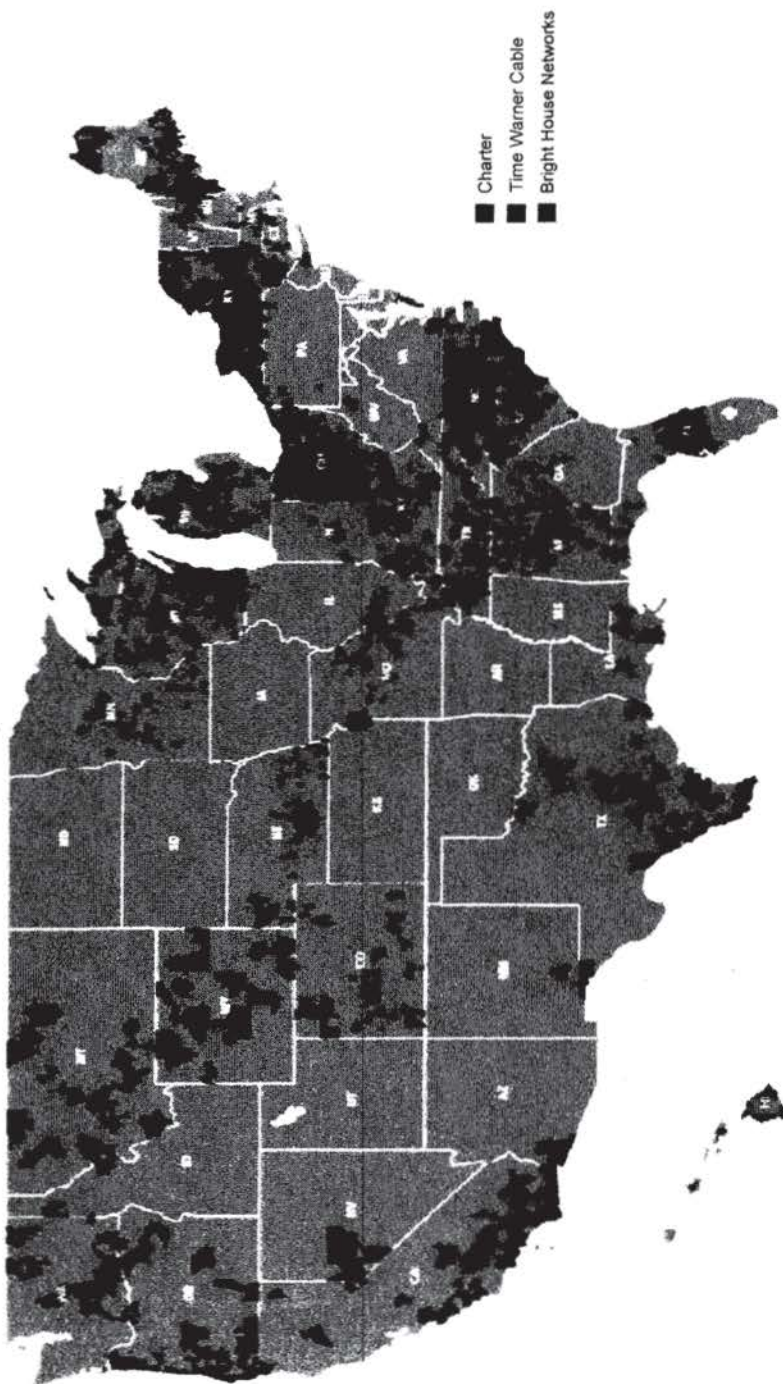
REDACTED – FOR PUBLIC INSPECTION

Retained on behalf of Microsoft Corporation and submitted expert report *Surfcast, Inc. v. Microsoft Corporation* in the US District Court for the District of Maine, Case No. 2:12-CV-00333-JDL (June 2014).

Retained on behalf of Tesla in *Georgia Automobile Dealers Association v. Tesla Motors, Inc.*, in a matter before the Georgia Office of Stat Administrative Hearings (February 2015).

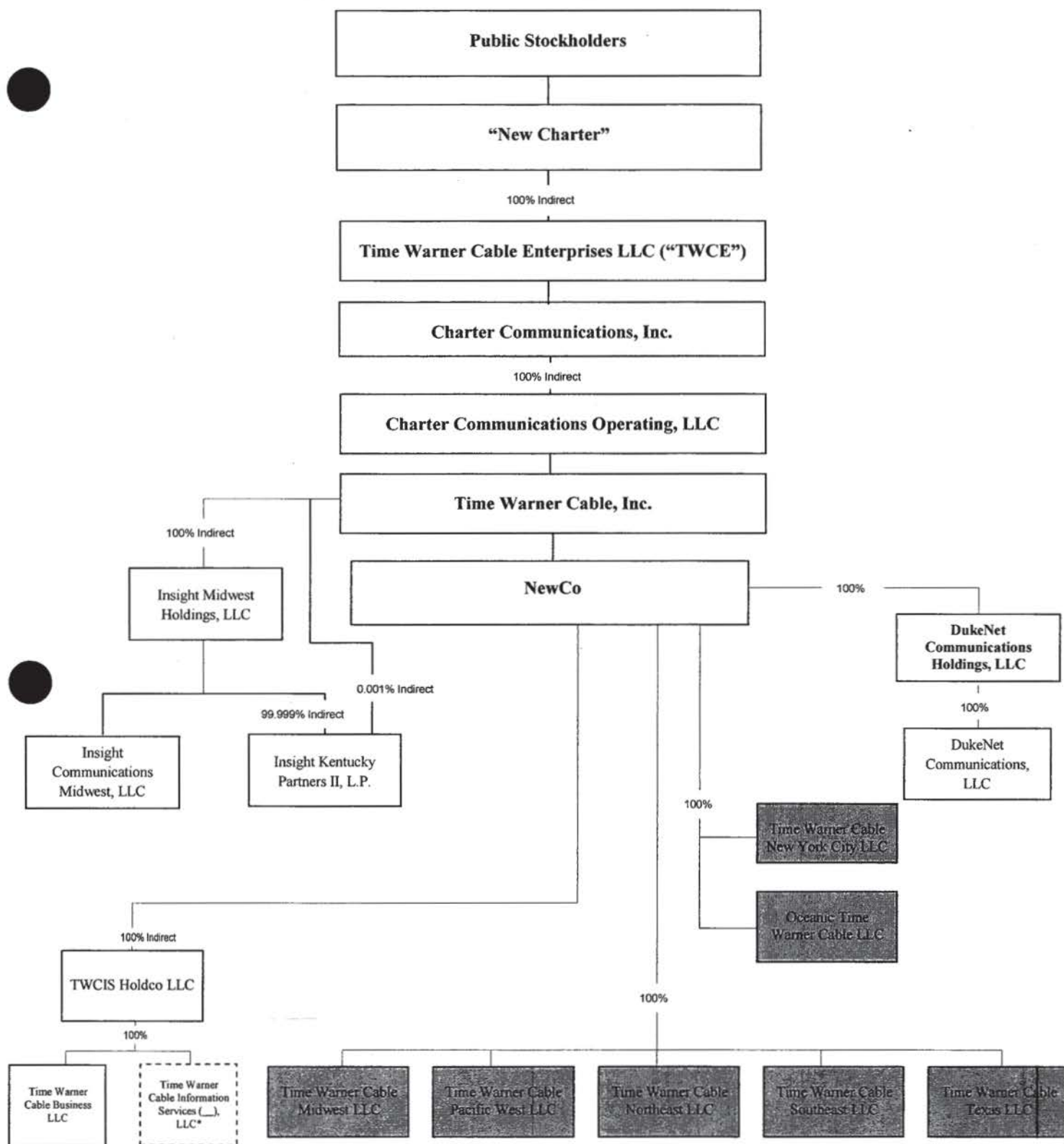


New Charter Service Areas



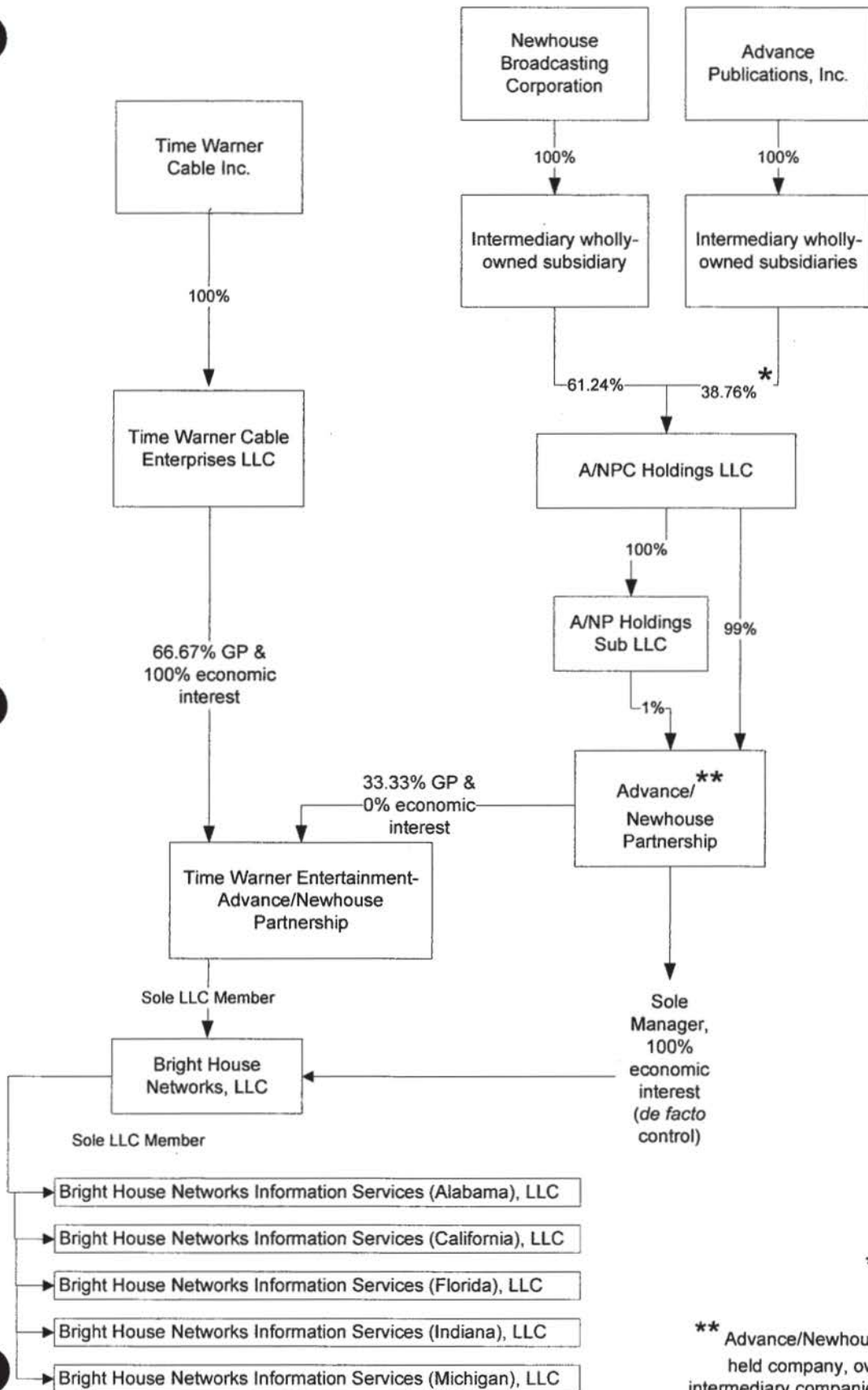


Post-Transaction Corporate Structure



*Placeholder for TWCIS entities for the following states: AL, AZ, CA, CO, HI, ID, IL, IN, KS, KY, MA, ME, MI, MO, NC, NE, NH, NJ, NM, NY, OH, PA, SC, TN, TX, VA, WA, WI, WV.

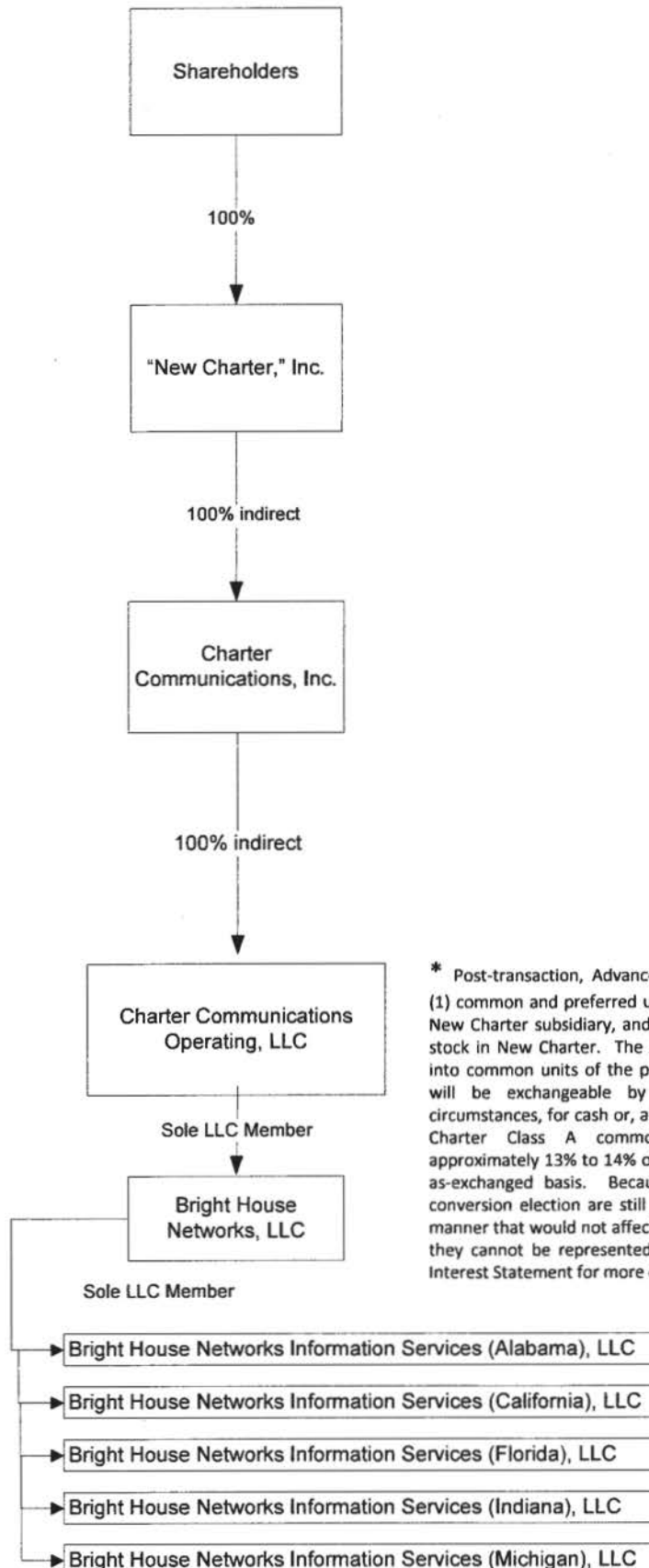
Pre-Transaction Structure



* Manager

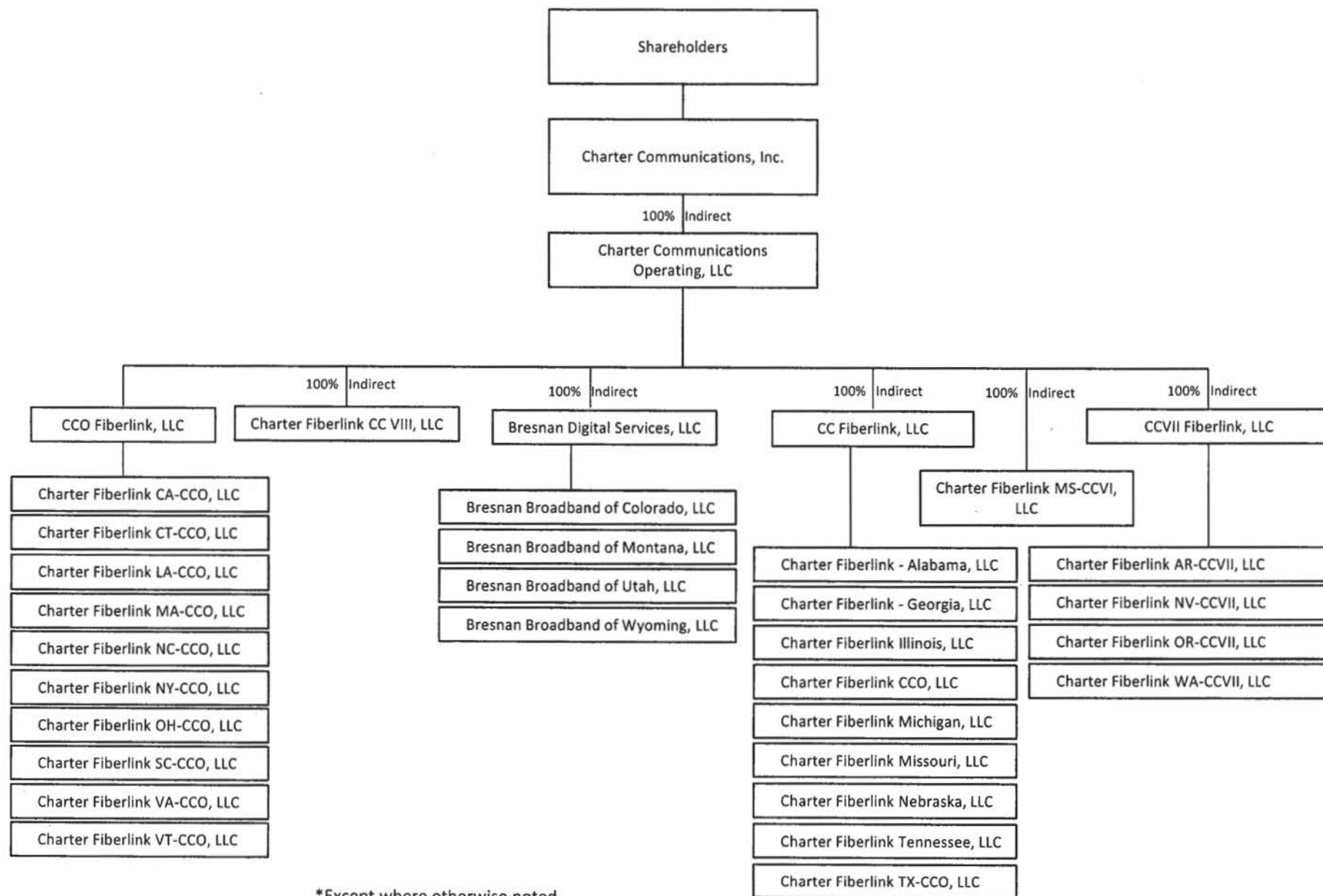
** Advance/Newhouse Partnership is a privately held company, owned and controlled, via intermediary companies, by the Newhouse Family.

Post-Transaction Structure



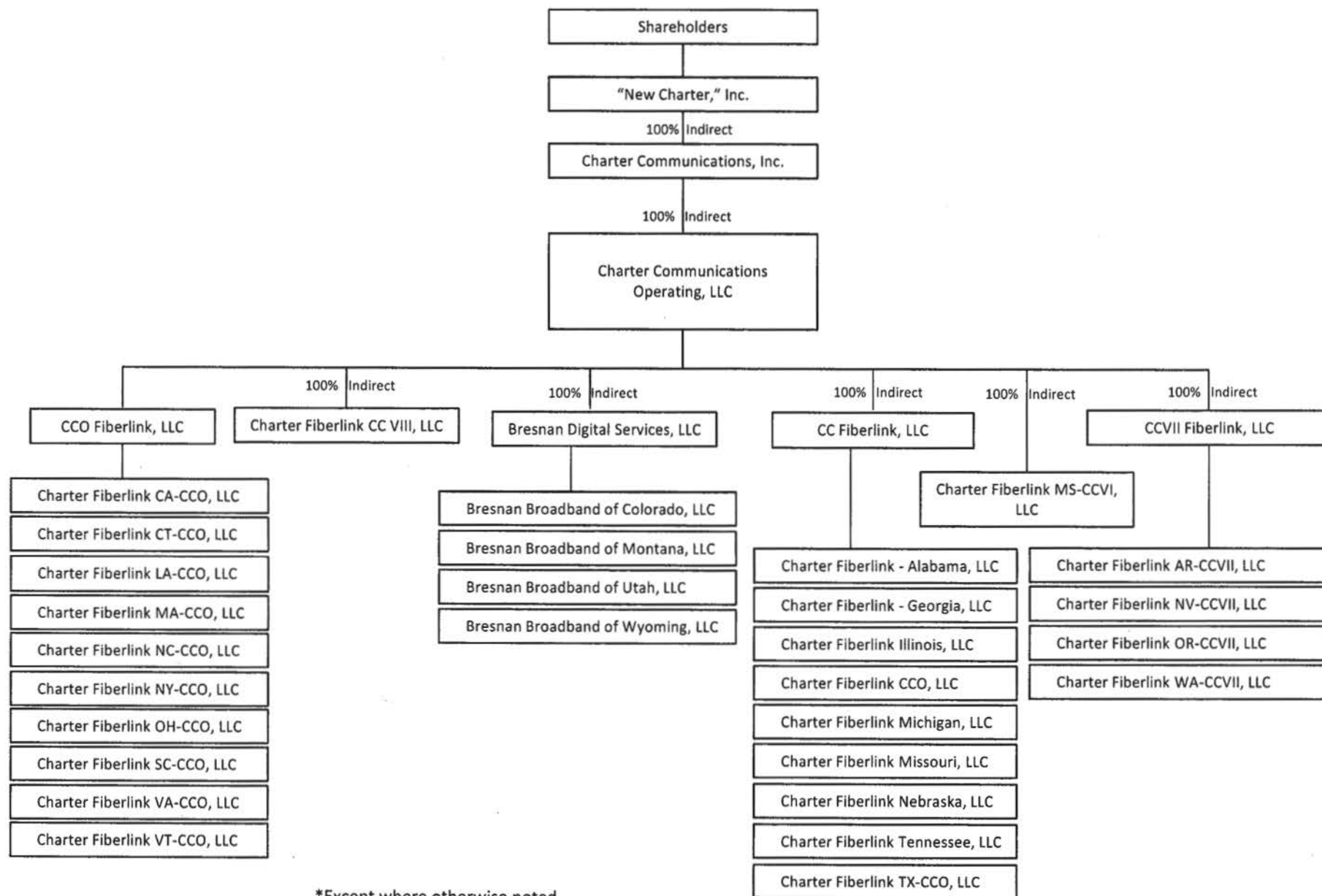
* Post-transaction, Advance/Newhouse Partnership will hold (1) common and preferred units in a partnership that will be a New Charter subsidiary, and (2) one share of Class B common stock in New Charter. The preferred units will be convertible into common units of the partnership, and the common units will be exchangeable by Advance/Newhouse, in certain circumstances, for cash or, at the election of New Charter, New Charter Class A common stock, and will represent approximately 13% to 14% of New Charter on an as-converted, as-exchanged basis. Because the partnership location and conversion election are still potentially subject to change in a manner that would not affect license and authorization holders, they cannot be represented graphically here. See the Public Interest Statement for more details.

Pre-Transaction Structure*



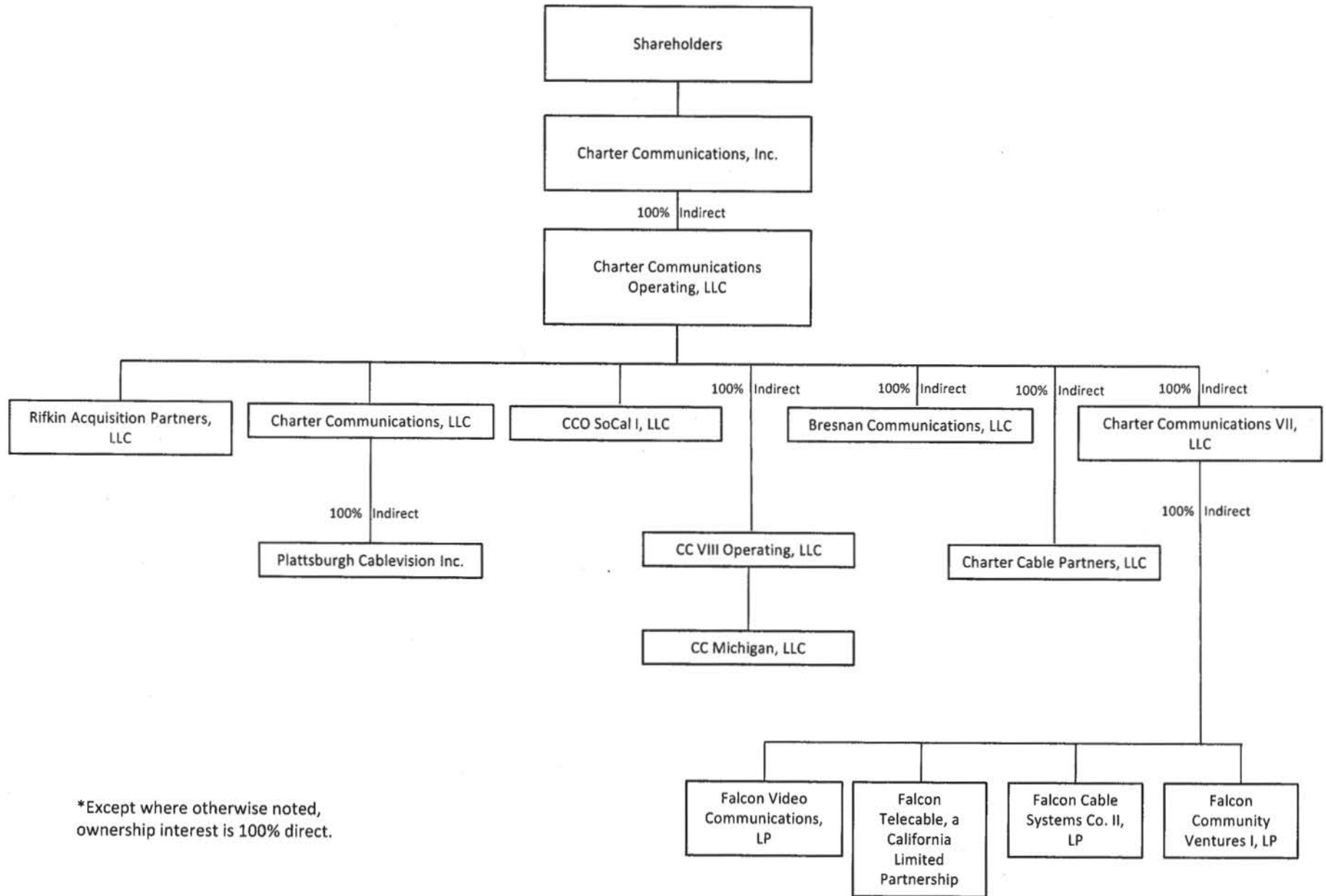
*Except where otherwise noted,
ownership interest is 100% direct.

Post-Transaction Structure*



*Except where otherwise noted,
ownership interest is 100% direct.

Pre-Transaction Structure*



*Except where otherwise noted, ownership interest is 100% direct.



**Programming Interests Held by Time Warner Cable Inc.
or Affiliated Companies**

Some channels listed below are offered in both SD and HD versions. Some are also offered via Local On Demand.

Attributable Interests in National Programming Services

iN Demand
MLB Network

Wholly Owned Regional and Local Channels (by state or region)

A. Regional Sports Networks (Carrying Professional Sports)

California/Nevada

Time Warner Cable Channel 858 (Spanish language)
Time Warner Cable Deportes (Spanish language)
Time Warner Cable SportsNet

Texas

Canal de Tejas (North - Dallas, Waco, El Paso; South - Austin, San Antonio, Corpus, RGV, Laredo) (Spanish language)

B. Other Regional Sports Networks (With No Professional Sports)

Hawaii

OC Sports
Oceanic SURF Channel

Kansas/Missouri

Time Warner Cable SportsChannel (KC)¹

Nebraska

Time Warner Cable SportsChannel (Nebraska)

New York

Time Warner Cable SportsChannel (Albany)
Time Warner Cable SportsChannel (Buffalo)
Time Warner Cable SportsChannel (Rochester)

¹ Customers also receive Time Warner Cable SportsChannel 2 (KC), which carries overflow programming from Time Warner Cable SportsChannel (KC).

Time Warner Cable SportsChannel (Syracuse)²

Ohio

Time Warner Cable SportsChannel (Cincinnati/Dayton)
Time Warner Cable SportsChannel (Cleveland/Akron)
Time Warner Cable SportsChannel (Columbus/Toledo)

Texas

Time Warner Cable SportsChannel (North - Dallas, El Paso; South - Austin, San Antonio, Corpus, RGV)

Wisconsin

Time Warner Cable SportsChannel (Milwaukee, Green Bay)

C. Local News, Lifestyle, and Sports Channels

California

Desert Cities TV (Desert Cities)
Time Warner Cable News (Palmdale)
Time Warner Cable SoCal 101

Hawaii

OC 16

Kansas/Missouri

Time Warner Cable Local Weather (KC)

Kentucky

cn|2

New England

TWC TV (New England/Portland, Augusta)

New York

Time Warner Cable News NY1
Time Warner Cable Noticias NY1
Time Warner Cable News (Buffalo)
Time Warner Cable News (Hudson Valley)

² Customers also receive Time Warner Cable SportsChannel 2 (Syracuse), which carries overflow programming from Time Warner Cable SportsChannel (Syracuse).

Time Warner Cable News (Jamestown)
Time Warner Cable News (Rochester)
Time Warner Cable News Capital Region (Albany)
Time Warner Cable News Central NY (Syracuse)
Time Warner Cable News North Country (Watertown)
Time Warner Cable News Southern Tier (Binghamton)
Time Warner Cable News Your Traffic (Albany)
Time Warner Cable News Live Radar (Syracuse)
Time Warner Cable News Rail & Road (Hudson Valley)
Time Warner Cable News Rail & Road (NYC)

North Carolina/South Carolina

Time Warner Cable News (Charlotte)
Time Warner Cable News (Greensboro)
Time Warner Cable News (Raleigh)
Time Warner Cable News (Wilmington)
Time Warner Cable SportsChannel (NC - Raleigh, Charlotte, Greensboro, Wilmington;
SC - Columbia, Florence, Myrtle Beach)

Ohio

Time Warner Cable Live Radar (Columbus)
Time Warner Cable Local Weather (Cleveland/Akron)

Texas

Time Warner Cable News (Austin)
Time Warner Cable News (Waco)
Time Warner Cable News Local Weather (Austin)
Time Warner Cable News Your Traffic (Austin)
Time Warner Cable Noticias Tiempo (Austin)
Time Warner Cable News Live Radar (Austin - North, Central, South, West,
Waco/Killeen, Beaumont)
Time Warner Cable News Live Radar (Corpus Christi)

Attributable Interests in Regional and Local Programming Services

Nippon Golden Network Inc. (Hawaii)
NGN Hotel Channels (Hawaii) (available in hotels only)
SportsNet New York
SportsNet LA³

³Time Warner Cable (TWC) does not have an ownership interest in SportsNet LA, which features the games of the Los Angeles Dodgers. TWC has entered into a long-term affiliation agreement with American Media Productions, which owns SportsNet LA. TWC acts as the network's exclusive advertising and affiliate sales agent and provides certain non-game production and technical services to American Media Productions.